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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,676	08/31/2001	Daniel Keele Burgin	FINL-005/00US	8505

22903 7590 05/14/2003

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EXAMINER
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CHRISTMAN, KATHLEEN M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/944,676

Applicant(s)

BURGIN ET AL.

Examiner

Kathleen M Christman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 11/08/2001 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. There is no copy of the reference Brader, 1994, Authoring-Systems Software for Computer-Based Training (Educational Technology Publications, New jersey) pp. 45-60, referenced on page 2 of the IDS. The IDS submitted 11/09/2001(entered as paper no. 3) appears to be a copy of the IDS filed 11/08/2001 (entered as paper no. 2) and has not been considered for this reason.

### ***Specification***

2. The use of the trademarks Sun Microsystems, Microsoft and Linux has been noted in this application. They should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

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Misnumbered claims 18-24 have been renumbered as claims 17-23 respectively. The dependencies of these claims have also been updated.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 7-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification as originally filed in no manner describes a primary end-user support system, a communication module, a support knowledge database (all in claim 7), a secondary end-user support system (claim 8), a primary storage device connected to the primary end-user support system (claim 9), an end-user frustration indicator, a support failure calculator (claim 10). There is no teaching as the function, structural arrangement, or use of any of these components in the specification. There is no teaching which would enable one of ordinary skill in the art to make and use the claimed invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "a navigation location" in claims 1, 17, and 23 is indefinite. The term is not defined by the claim. The limitations "a page" and "the page" in claims 7, 8 are indefinite. It is unclear as to what type of "page" the claim refers. The phrase is not defined by the claim. Further, claim 5 recites the limitation "wherein

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referring the end-user to the secondary support session". There is insufficient antecedent basis for this limitation in the claim.

Claims 2-4, 6, 9-16, and 18-22 are rejected for their incorporation of one or more of the above through their dependencies.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1-5, 17-21 and 23, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Richard et al (US 6162060) in view of Siefert US (5810605). Richard et al teaches a system and method for providing automated help (support) to a user including the steps of; receiving a request for end-user support from an end-user; determining a navigation location for the end-user; providing an automated support session corresponding to the navigation location (claims 1, 17 and 23), see col. 9: 1-5. Regarding claim 7, a processor, and a storage device connected to a processor is shown in col. 3: 55-60.

Richard et al fails to specifically teach retrieving a user profile associated with the end-user; recording an automated support data item in the user profile, wherein the automated support data item is related to the automated support session (claims 1, 17, and 23); receiving a second request for end-user

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support from the end-user; providing a second automated support session, wherein the second automated support session accounts for the recorded support data item (claims 2 and 18); determining an effectiveness level for the automated support session, and responsive to the effectiveness level being below a threshold, recording the automated support data item in association with an automated support failure indicator (claims 3 and 19); responsive to the effectiveness level being below a threshold, referring the end-user to a secondary support session (claims 4 and 20); and the secondary support session being referring the end-user to a live support session (claims 5 and 21).

Siefert teaches each of these components. The user profile is taught at col. 7: 11+. The second request for training and its various attributes are taught in Figure 4. The assessment of the student and the results of the assessment being below a predetermined threshold is taught in Figures 2 and 4. The live support session" corresponds to the subject matter expert of Siefert.

Although Richard et al teaches a system that incorporates an expert system, the specific functionality of the expert system is not taught. It would have been obvious to one of ordinary skill in the art to seek outside sources. Thus the incorporation of the Intelligent Agent of Siefert within the Richard et al system would have been obvious to one of ordinary skill in the art at the time the invention was made.

11. Claims 6 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richard et al (US 6162060) in view of Siefert US (5810605) as applied to claim 1 above, and further in view of Cook et al (US 5727950). Neither Richard et al nor Siefert teach, "selecting a personae from a plurality of personae for interacting with the end-user, wherein the personae is selected in response to the user profile". Cook et al clearly teaches this limitation at col. 10: 50+. It would have been obvious to one of ordinary skill in the art to incorporate the agent system of Cook et al into the systems of Siefert and Richard et al so as to better instruct, motivate, engage and guide the user of the system, as taught by Cook et al, see col. 6: 1-5.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


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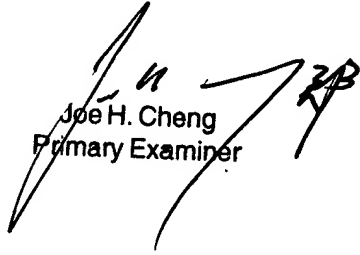
- a. Tucciarone et al (US 2003/0009385 A1) teaches a system and method for providing an on-request service
- b. Martin (US 2002/0174106 A1) teaches a networked education system including the use of an agent
- c. Himmel et al (US 2002/0119435 A1) teaches a networked system including the distribution of electronic courses
- d. Headrick et al (US 6557006 B1) teaches an online interactive electronic system where a user may request more information on a particular item

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Kathleen M. Christman  
May 8, 2003

  
Joe H. Cheng  
Primary Examiner